

STATEMENT OF SCOPE

Office of the Commissioner of Insurance

145- Office of the Commissioner of Insurance

Rule No.: Sections Ins 3.651 (2) (note), 3.70, 3.75 (6), 5.45 (1) (b), 6.52(5), (6) and Form B; Ins. 6.85 Appendix 1 and 2; Ins. chapter 7 and note; Ins. 8.40, 8.42 (4) (a) and (b), (7) (c) 1. and (13), 8.59, 8.60 (1) (a), (d) and (e), 8.61 (2) and (6), 8.68 (3) (b) and (c); Ins. 9.40 (1) (a), (5) and (6), Ins. 16.01 (7) (a), Ins 50.14 (2), Ins 50.15, Ins 50.155, and Ins 50.18 Wis. Adm. Code.

Relating to: reporting requirements for new officers and directors of domestic insurers, providing electronic means of filing a complaint, obtaining insurance forms, and providing CPA work papers, updating/potentially eliminating list of insurance forms; eliminating for all HMOs reporting requirement of Healthcare Effectiveness Data and Information (HEDIS) data; increasing minimum charge for OCI's conducting of insurer examinations, establish a requirement for an internal audit function for large insurers and other technical changes and affecting small business

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule.

OCI is proposing a number of small rule changes and repeals in order to update and eliminate out of date code provisions. The proposed changes are as follows:

Section Ins 3.651 (2) (note). The objective of the proposed rule is to correct the address of the OCI within the Note.

Sections Ins 3.70, 3.75 (6), 5.45 (1) (b), 8.40, 8.42 (4) (a) and (b), (7) (c) 1. and (13), 8.59 (4), 8.60 (1) (a), (d) and (e), 8.61 (2) and (6), and 8.68 (3) (b) and (c). The objective of the proposed rule is to remove the cross reference to the Health Insurance Risk Sharing Pool (HIRSP) as the program has been removed from statute by 2013 Wis. Act 20.

Sections Ins 6.52 (5) and (6). The objective of the proposed rule is to simplify the filing requirements for domestic insurers with regard to biographical information required to be filed with the OCI for new officers and directors. Currently OCI has two forms for filing biographical information. The proposed rule eliminates the Form B filing requirement and replaces it with the current Form A which is more informative and will reduce confusion by having the same form required for officers and directors of insurers both before and after the insurer is organized.

Section Ins 6.85, Appendices 1 and 2. The objective of the rule change is to amend the contact information that insurers are required to provide insureds regarding the right to file a complaint with OCI in Appendices 1 and 2 of the rule. The proposed amendments will include the OCI website in the notice and advise consumers of the option of filing a complaint with the OCI electronically as well as the current options of mailing or phoning the Office of the Commissioner of insurance thereby increasing consumer access to the complaint process.

Chapter Ins 7 and (note). The purpose of this rule change is to review and update the list of OCI forms in this chapter-- to delete obsolete forms and to determine if newer OCI forms in current use

need to be added to the list in ch. Ins. 7. This rule was last updated in 1992. Further, OCI forms currently listed in the rule and ones in current use will be reviewed to determine if each form (still) imposes requirements meeting the definition of a rule under s. 227.01(13) and is therefore required to be published under s. 227.23(3), Wis. Stats. If an OCI form, or forms, do not “impose requirements meeting the definition of a rule” as set forth in ss. 227.01(13) and 227.23(3), then OCI proposes to delete the form from the list of forms in chapter 7 and potentially repeal chapter 7 altogether. If there are no OCI forms which meet the definition of a rule under s. 227.01(3), Wis. Stats., and are required to be published there would be no further need for this rule. If there are OCI forms that still need to be listed in Chapter 7, then those will be listed and the note to the rule will also be updated to advise the public of OCI’s website where not only the listed OCI forms, but *all regularly used OCI forms*, may be obtained.

Ins 9.40 (1) (a), (5) and (6). The objective of this rule change is to eliminate the duplicative and now unnecessary reporting requirements imposed by these two rule subsections on HMOs and on certain defined network plans relating to certain standardized quality outcome data. The data and reports are no longer needed as similar and more comprehensive quality outcome reports are available to consumers from other sources.

Ins 16.01 (7) (a). The objective of this proposed rule change is to impose a small increase in the minimum annual billing OCI may charge for its examination of domestic insurers to an amount that more accurately reflects the actual administrative cost incurred by the agency to conduct the statutorily required examination and analysis it performs of domestic insurers. The existing minimum bill for OCI examinations is \$1,000 for domestic insurers located primarily out of state and \$300 for all other domestic insurers. This rule has not been updated since 1999.

Ins 50.14 (2). The objective of this rule change is to modernize the rule to make it clear that the commissioner may obtain CPA work papers pertaining to an insurer’s annual audit in an electronic form. The existing rule includes a statement that “the commissioner may photocopy work papers and retain the copies.” The proposed change would modernize the rule to modern business practices.

Ins 50.155, 50.15, 50.18. The objective of proposed s. Ins 50.155 is to establish a requirement for an insurer to have an internal audit function if the insurer has over \$500,000,000 of gross annual premiums or if the insurer is a member of an insurance group with over \$1,000,000,000 of gross annual premiums. The rule would also establish requirements regarding the role of the internal audit function including its independence and general reporting requirements. Minor changes would be made to s. Ins 50.15 to add a reference to the proposed section and to s. Ins 50.18 to establish an effective date of January 1, 2016.

2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives.

Section Ins 3.651 (2) (note). The proposed rule is solely to correct the address of the OCI within the Note.

Sections Ins 3.70, 3.75 (6), 5.45 (1) (b), 8.40, 8.42 (4) (a) and (b), (7) (c) 1. and (13), 8.59 (4), 8.60 (1) (a), (d) and (e), 8.61 (2) and (6), and 8.68 (3) (b) and (c). Following enactment of 2013 Wis. Act 20, reference is no longer necessary to HIRSP, the proposed change will remove the errant references.

Sections Ins 6.52 (5) and (6): Under the current rule an entity organizing as or acquiring a domestic insurer is to file biographical information on each officer and director of the insurer including an educational history, a 10 year employment history, any name changes and contact information as set forth in Form A. A different form, Form B, is currently required to be filed with OCI for reporting information on new officers and directors of an already licensed Wisconsin domestic insurer. Form B currently does not request relevant basic information such as education history and 10 year employment history or name changes. The proposed rule eliminates Form B and simply requires both an entity organizing a new insurer and existing domestic insurers to file the same Form A

biographical information with respect to new officers and directors of regulated Wisconsin-domestic insurers, thereby simplifying the filing requirement and reducing confusion.

Section Ins 6.85, Appendices 1 and 2. The existing rule only provides insurance consumers with information on filing a complaint or obtaining information from OCI by mail or phone. Amending the rule to include OCI's website and an electronic means of obtaining and filing a complaint will increase efficiency and access to the OCI's consumer complaint process and reduce response time.

Chapter Ins 7 and (note). Chapter 7 lists the title and form number of forms prescribed by the Office which impose requirements meeting the definition of a rule and therefore must be published. This rule has not been revised or updated since 1992. At a minimum, the rule change will add certain forms currently in use and not listed in chapter 7 and delete other obsolete forms. The note to the chapter which currently only gives OCI's mailing address will also be updated by the rule change to advise the public of OCI's website where *all regularly used OCI forms (whether listed or not)* may be readily obtained. Further, OCI forms currently listed in the rule and ones in current use will be reviewed to determine if each form (still) imposes requirements meeting the definition of a rule under s. 227.01(13) and is therefore required to be published under s. 227.23(3), Wis. Stats. If an OCI form, or forms, do not "impose requirements meeting the definition of a rule" as set forth in ss. 227.01(13) and 227.23(3), then OCI proposes to delete the form from the list of forms in chapter 7 and potentially repeal chapter 7 altogether. If there are no OCI forms which meet the definition of a rule under s. 227.01(3), Wis. Stats., and are required to be published there would be no further need for this rule.

Ins 9.40 (1) (a), (5) and (6). Subsections Ins. 9.40(1) (a) and (5) currently require every HMO to submit HEDIS (Health Plan Employer Data and Information Set) quality assurance data to OCI no later than June 15, annually. Similarly, subsection 9.40(6) currently requires a very limited number of defined network plans to submit a "standardized data set" of quality outcome data designated by OCI to the Office by June 15 on an annual basis. The passage and implementation of the Affordable Care Act has changed the health insurance marketplace such that significantly more quality outcome data is readily available to consumers via the federal website and also via other health care performance data collection groups. Thus, it is OCI's judgment that the requirements of these rule subsections should be eliminated as duplicative and unnecessary.

Ins 16.01 (7) (a). The existing minimum bill for OCI examinations is \$1,000 for domestic insurers located primarily out of state and \$300 for all other domestic insurers as currently provided in Ins. 16.01(7) (a). This minimum has not been increased since at least 1999. Meanwhile, OCI's actual administrative costs to conduct statutorily required examination and analysis of domestic insurers have increased substantially. The minimums set forth in this rule should be increased more accurately reflect the reasonable costs of OCI's examinations.

Ins 50.14(2). The existing rule allows OCI to "photocopy" CPA work papers.

Ins 50.15, Ins 50.155, and 50.18. Currently, Wisconsin has no formal requirement that insurers have an internal audit function, although we believe that all large insurers already do. The proposed rule would formalize the requirements for such a function, consistent with the National Association of Insurance Commissioner's ("NAIC") model regulation and the laws and regulations of other states. It is anticipated that this change will be made an accreditation requirement by the NAIC.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language).

The statutory authority for these rules are ss. 227.11 (2) (a) and 601.41(3), Wis., Stats, which provide the commissioner's rulemaking authority in general, and specifically, s. 611.54(1), Wis. Stats. provides authority for the commissioner's rulemaking authority for s. Ins 6.52 rule change regarding insurer reporting requirements of biographical data on insurance company officers and directors. Section 611.54(1) states "the name of any person selected as a director or principal officer of a

[insurance] corporation, together with such pertinent biographical and other data *as the commissioner requires by rule* shall be reported to the commissioner immediately after selection.”

Specific rulemaking authority for Ins 6.85 rule change: Section 631.28(1), Wis. Stats., requires all insurers to provide notice to its insureds of the right to file a complaint with OCI. Section 631.38(2), Wis. Stats. states: “The commissioner shall promulgate rules specifying the contents of the notice... under sub. (1)... The rules shall describe how a policyholder, insured or other person may make a complaint with the office...”

Specific rulemaking authority for Ins Chapter 7 and (note): Section 227.01 (13) defines a “rule” to mean “a regulation, standard, statement of policy,... which has the effect of law and which is issued by the agency to implement, interpret, or make specific legislation enforced or administered by the agency...” Section 227.01(3) further provides the definition of a “rule” “does not include ...any action or inaction of an agency... which:

(j) Relates to the form and contents of reports, records or accounts of a state...agency.

(q) Is a form the content or substantive requirements of which are prescribed by a rule or statute.”

Also, s. 227.23, Wis. Stats., provides: “A form imposing a requirement which meets the definition of a rule shall be treated as a rule for the purposes of this chapter, except that: (3) It need not be published in the code and register in its entirety, but may be listed by title or description together with a statement as to how it may be obtained.”

Specific rulemaking authority for Ins 9.40 rule changes: Section 609.20(1m), Wis. Stats. states the commissioner “may promulgate rules relating to ...defined network plans” to effectuate certain purposes of Chapter 609 of the statutes. Further, s. 609.38, Wis., Stats., provides “the commissioner shall by rule develop standards for defined network plans for compliance with the requirements of this chapter.”

Specific rulemaking authority for Ins. 16.01 (7) (a) rule changes: Section 601.45(1) Wis. Stats. states the “reasonable costs of examinations ... shall be paid by examinees... as the commissioner may by rule prescribe.”

Specific rulemaking authority for Ins. 50.14(2), Ins 50.15, Ins 50.155, and 50.18 rule changes: Section 601.42 Wis. Stat. authorizes the commissioner to request statements, reports, and other information from regulated persons. Section 601.42(2), Wis. Stat. authorizes the commissioner to prescribe forms for these reports. Sections 623.03 and 623.04 authorize the commissioner to promulgate rules regarding the valuation of assets and liabilities. Section 623.02 allows the commissioner to promulgate standards for accounting rules.

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule.

400 hours and no other resources are necessary to develop the rule.

5. List with description of all entities that may be affected by the proposed rule.

Domestic insurers—including HMOs and other defined network plans will be affected by the reduction/elimination of certain reporting requirements. A very small number of domestic insurers may be affected by the proposed reasonable increase in minimum annual billing for OCI examinations.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

The Office is unaware of any proposed or existing federal laws or regulations that are intended to address the activities to be regulated by the proposed rule changes.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses).

No significant economic impact on small businesses is anticipated.
Local/statewide economic impact is anticipated to be minimal.

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